

Background
Civil Case Number 01-C-0928

Plaintiffs, represented by Disability Rights Wisconsin (DRW) and State Defendants, Wisconsin Department of Public Instruction (DPI) and Elizabeth Burmaster, have reached a settlement agreement in the special education class action lawsuit, Jamie S., et al., v. Milwaukee Public Schools, et al filed in 2001 against State Defendants and Milwaukee Public Schools. The Court must approve the settlement agreement. Plaintiffs have not reached an agreement with Milwaukee Public Schools in the matter.

Magistrate Judge Aaron Goodstein is overseeing this class action in the U.S. District Court, Eastern District of Wisconsin, Civil Case Number 01-C-0928. On September 11, 2007, Magistrate Judge Aaron Goodstein issued an order finding that between September 2000 to June 2005, Milwaukee Public Schools systemically violated the Child Find provisions of the Individuals with Disabilities Education Act (IDEA) in the following ways: (1) MPS failed to refer children with a suspected disability in a timely manner for an initial evaluation, i.e., the 90 day requirement; (2) MPS improperly extended the 90 day time requirement; (3) MPS imposed suspensions in a manner that improperly impeded its ability to refer children with suspected disabilities for an initial evaluation; and (4) MPS failed to insure that the child's parents or guardians attend the initial evaluation. The Court also found that between September 2000 and June 2005, the Wisconsin Department of Public Instruction (DPI) violated the IDEA by failing to adequately discharge its oversight and supervisory obligations in regard to the compliance by MPS with the IDEA and related state statutes, as that compliance relates to the systemic violations found by the Court. The Court scheduled a trial on the appropriate remedy for these violations to begin on November 3, 2008 and encouraged the parties to renew efforts to settle the case.

DRW and the DPI have now reached an agreement in the matter related to the claims against DPI. In summary, the terms of the agreement include the following:

- 1) Appointment of an independent outside expert funded by DPI to monitor the Milwaukee Public Schools' state and federal special education law obligations, and the establishment of measurable standards for MPS's future performance with respect to:
 - a) timely initial evaluations of children for special education;
 - b) parental participation in initial IEP meetings;
 - c) referral of students who reach a set number of suspensions in a given school year to a system of building-based early intervention services to address the student's academic or behavior issues that resulted in suspensions;
 - d) referral of students who are retained in a given school year to the system of building-based early intervention services.
- 2) The independent expert shall conduct a review of policy and procedures in Milwaukee Public Schools and conduct a needs assessment regarding Child Find. The expert will oversee the creation of a compliance plan to achieve agreed upon performance standards in the Milwaukee Public Schools District and have the authority to see that those standards are met.
- 3) The creation of a parent trainer position housed at F.A.C.E.T.S. to provide training and support to MPS parents and others. This position will be funded by DPI at an annual cost not to exceed \$75,000, and a total cost not to exceed \$300,000.
- 4) The payment of attorney's fees to plaintiff's counsel in the amount of \$475,000.

- 5) Release by all class members of all claims against DPI that arose out of or were related to the litigation, between September 13, 2000, and the date on which the Court approves the settlement agreement.
- 6) Reservation by plaintiffs' counsel of the rights of all class members to seek relief from MPS with respect to claims that arise out of or are related to the litigation between September 13, 2000, and the date on which the Court approves the settlement agreement, including but not limited to claims for compensatory services for injured class members, and claims for additional attorneys fees and costs.
- 7) Dismissal of DPI as a party defendant in further proceedings in the lawsuit, subject to the Court's retention of jurisdiction to enforce the terms of the agreement.

Plaintiffs and DPI agree that this settlement is educationally appropriate and will help focus efforts to improve education for all children in Milwaukee Public Schools. The settlement ensures that special education laws will be followed and that MPS will have a system in place that identifies and appropriately addresses academic or behavioral problems early.